

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

UNITED STATES OF AMERICA)	C/A No. 3:05-2133-JFA
)	CR No. 3:01-506-JFA
v.)	ORDER
)	
TERRENCE COLEMAN)	
)	
_____)	

The defendant filed a motion challenging his conviction and sentence under 28 U.S.C. § 2255. In an order filed September 27, 2005, this court denied the relief requested and dismissed the petition. That decision by this court was affirmed by the United States Court of Appeals for the Fourth Circuit in an unpublished decision filed on June 2, 2006.

The defendant now returns to this court with a motion pursuant to Rule 60(b)(6) of the Federal Rules of Civil Procedure to “Reopen the Defendant Petitioner’s Previously Filed Motion Under 28 U.S.C. § 2255, or, in the Alternative, Motion Under 28 U.S.C. § 2241, or, in the Alternative, Motion Under 28 U.S.C. § 2255(f)(3) & (4).”

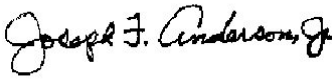
The defendant declares, at several points in his pleading, that “this motion is not and may not be construed as a ‘second or successive’ § 2255 motion.” The pleading then goes on to suggest that the defendant is “actually and factually” innocent of the crime for which he pled guilty.

The defendant may not unilaterally decide an issue of law, to wit: whether this action is a “second or successive” petition under § 2255. This court’s review of the most recent filing by the defendant reveals that the petition is actually successive. Accordingly, because

the defendant has not obtained permission from the Fourth Circuit Court of Appeals to file a second or successive petition, the current motion (ECF No. 19) is denied with prejudice.

IT IS SO ORDERED.

April 30, 2013
Columbia, South Carolina


Joseph F. Anderson, Jr.
United States District Judge